



**DEPARTMENT OF FORESTRY AND FIRE PROTECTION
OFFICE OF THE STATE FIRE MARSHAL**

P.O. Box 944246
SACRAMENTO, CA 94244-2460
(916) 445-8200
Website: www.fire.ca.gov



**Office of the State Fire Marshal
Aboveground Petroleum Storage Act Advisory Committee**

Draft Meeting Minutes

Meeting Date: October 31, 2016

Meeting Time: 9:00 a.m. – 11:30 a.m.

Meeting Location: Office of the State Fire Marshal, Training Conference Room
1131 S Street
Sacramento, California 95811

Staff Present:

Greg Andersen, Division Chief
Jennifer Lorenzo, Senior Environmental Scientist, Committee Chair
Glenn Warner, Senior Environmental Scientist
Jenna Yang, Environmental Scientist

Members Present:

Ryan Bailey,* Sacramento County Environmental Management Certified Unified Program Agency (CUPA)
James Carver,* Southern California Fire Prevention Officers (FPO)
Armand Delgado,* Verizon Wireless
Tom Ellison,* Kern County Fire Department
Rich Erickson,* Donlee Pump Company
Craig Fletcher,* Fletcher Consultants, Inc.
Andrea Fox,* California Farm Bureau Federation
Wayne Geyer,* Steel Tank Institute (STI)
David Harris,* Donlee Pump Company
Michael Huber,* U.S. Department of the Navy
Robert Marshall,* Contra Costa County Fire Protection District
Jay McKeeman,* California Independent Oil Marketers Association (CIOMA)
Vince Mendes,* Fresno County Environmental Health CUPA
Stacey Miner,* Walmart
John Paine,* California Environmental Protection Agency (CalEPA)
Sande Pence,* San Diego County Environmental Health CUPA
Randy Sawyer* (Co-Chair), Contra Costa County Hazardous Materials CUPA
Nancy Schlotthauer,* San Bernardino County Fire District CUPA
Jim Whittle,* Shasta County Environmental Health CUPA
Patrick Wong, PG&E

CONSERVATION IS WISE-KEEP CALIFORNIA GREEN AND GOLDEN

PLEASE REMEMBER TO CONSERVE ENERGY. FOR TIPS AND INFORMATION, VISIT "FLEX YOUR POWER" AT WWW.CA.GOV.

Guests Present:

Christina Graulau,* U.S. Department of the Navy
Ryan Hanretty,* CIOMA
Devra Lewis,* Contra Costa County Hazardous Materials CUPA
Eric Sutton, Sacramento County Environmental Management CUPA

** Via Conference Call*

Members Absent:

Jason Boetzer, Calaveras County Environmental Health CUPA
Kevin Buchan, Western States Petroleum Association (WSPA)
Michelle Le, Pacific Gas and Electric (PG&E)
Ernie Medina, Bakersfield Fire Department CUPA
Pete Reich, U.S. Environmental Protection Agency (US EPA)
Jason Rizzi, Northern California FPO
Todd Tamura, Tamura Environmental, Inc. (Consultant to WSPA)
Janice Witul, US EPA

I. Call to Order

Committee Chair, Jennifer Lorenzo, called the meeting to order at 9:03 a.m. and welcomed everyone to the meeting.

II. Roll Call and Introductions

Jenna Yang conducted the roll call and it was determined that a quorum was present. Attendees and guests introduced themselves.

III. Approval of Minutes

Minutes from the meeting on July 13, 2016, were reviewed. No amendments were suggested. Robert Marshall motioned to approve the minutes and Jay McKeeman seconded the motion. All members were in favor and none opposed.

IV. Review of Action Items from July 13, 2016

Ongoing Action Items

1. APSA Frequently Asked Questions (FAQ)
2. APSA Basic Inspector Training

Completed Action Items

1. Updated language for APSA data field 8 and help bubble text sent to committee members

V. Old Business – Workgroup Updates

A. Regulations

Since the last meeting, a Regulations Subcommittee was established to address certain sections of the proposed California Code of Regulations (CCR) Title 19 – APSA regulations based on concerns from CalEPA. The subcommittee modified the proposed APSA regulations and developed new language for certain sections.

The Committee Chair reviewed the amendments and proposals developed by the subcommittee (refer to the Attachment).

Article 3

Section 2170.00(b) and (d) was amended. The last two statements in (b) were moved to Article 4. Oil was replaced with “petroleum” in Section 2170.00(d). The term “periodic inspections” as mentioned in Section 2170.02 was also clarified in the new proposed Section 2170.03. Patrick Wong asked if the language in Section 2170.03 would pose any issues, since the proposed language seemed duplicative of the Federal Spill Prevention, Control, and Countermeasure (SPCC) rule. The Committee Chair said it would not pose an issue, since it aims to clarify the statute.

Article 4

This article had the most and substantial changes. Section 2180.00 was formerly titled “Compliance Verifications and Inspections” and is now titled “SPCC Plan Review.” Requirements in this section were itemized for better flow and a new requirement was added regarding the 5-year review of the SPCC Plan. The requirement about CUPAs verifying periodic inspections of tanks being done by the owners/operators were moved to a new Section 2180.01. Section 2180.00 on “SPCC Plan Review” would be applicable to all tank facilities, excluding conditionally exempt tank facilities.

Section 2180.01 (“SPCC Compliance Verification – Less than 10,000 gallons”) is a new section to ensure that each tank facility owner/operator with less than 10,000 gallons in storage capacity is implementing their SPCC Plan, including compliance with the following three items, in accordance with the Federal SPCC requirements: (1) appropriate containment and/or diversionary structures or equipment is provided; (2) periodic inspections of ASTs are being conducted; and (3) visible discharges are corrected and accumulation of petroleum in diked areas are removed. Each CUPA would be required to develop a procedure to verify SPCC Plan implementation at these tank facilities at least once every three years. The CUPA may opt to do an inspection (full routine inspection or minimal verification) while conducting other Unified Program element inspections or another method developed by the CUPA, such as a self-certification process that does not require an inspection of the tank facility. Section 2180.01 would not be applicable to conditionally exempt tank facilities.

Randy Sawyer stated that the CUPA Forum Board had concerns on the SPCC Plan implementation requirements of this new section and will get back to the Committee Chair with further feedback from the CUPA Forum Board.

Ryan Bailey asked if Section 2180.01(a)(2) would include not just visual inspections but also the integrity testing. Although not specifically called out in the section, the facilities are still required to conduct all necessary inspections, as well as integrity tests, pursuant to the Federal SPCC requirements.

Craig Fletcher was concerned that the language proposed for verification by the CUPAs at tank facilities regarding the containment in Section 2180.01(a)(1) did not appear to allow for an impracticability determination on secondary containment. Edits to this section were provided for clarification.

Jay McKeeman had a concern on Section 2180.01(a)(3) regarding visible discharges to be corrected and accumulations of petroleum in diked areas to be removed. Mr. McKeeman was concerned about how this section would be implemented; he will contact US EPA for further clarification on this section.

Sande Pence mentioned that although San Diego County CUPA is already doing abbreviated inspections at tank facilities with less than 10,000 gallons in storage capacity, the proposed additional requirements for SPCC Plan implementation verification will require the San Diego County CUPA to increase their fees to ensure that all these new requirements will be covered and the costs are paid for.

Many CUPAs are already conducting some sort of minimum inspection at tank facilities, and CUPAs have the authority to assess fees and increase fees, if necessary, to cover the cost of implementing the APSA program within their jurisdiction. The new Section 2180.01 will have an economic impact and should be considered in the rulemaking's economic and fiscal impact analysis.

Mr. Fletcher asked if the procedure described in Section 2180.01(b) would be developed by the CUPA Forum Board for statewide consistency. The Committee Chair replied that the procedure would have to be developed by each individual CUPA. Ms. Pence further explained that it was for consistency with the Federal SPCC rule, which is performance-based. Each CUPA is different, so each CUPA should be allowed the flexibility to develop something that works within their jurisdiction.

If an inspection is conducted at a tank facility, then it is expected that the CUPA enter the inspection information into CERS. Mr. Bailey mentioned that Sacramento County CUPA inspectors conduct minimal inspections to verify SPCC Plan implementation at these sites with less than 10,000 gallons in storage capacity, and report their inspections as "other inspections" (as opposed to a "routine inspection") in CERS.

Regarding Section 2180.02 (now titled “SPCC Compliance Inspections – 10,000 gallons or more and Tanks in Underground Areas”), the duplication of the statute on required inspections has been struck out and replaced with an amended language. The amended language includes the proposed requirement for CUPAs to inspect tanks in underground areas, which was formerly in Section 2180.00.

The option to inspect tank facilities with less than 10,000 gallons in storage capacity has been moved to Section 2180.01. Section 2180.04 on inspection reports had minor edits.

Article 5

Section 2190.00 on CUPA refresher training was also amended to include an exception language for clarity. Christina Graulau was concerned that this section did not address training for the CUPA staff inspecting tank facilities with less than 10,000 gallons, especially federal facilities. The Committee Chair replied that CUPA inspectors go through their agency’s minimum set of training requirements before being able to conduct any Unified Program inspections, including the APSA program. The APSA training program was an additional training requirement specific to inspecting tank facilities with at least 10,000 gallons in storage capacity. Statutory change will be needed to require that CUPA inspectors be trained prior to inspecting tank facilities with less than 10,000 gallons in storage capacity.

Article 6

Section 2200.00 also had minor edits. Regarding the total petroleum storage capacity in Section 2200.00(a)(2), Jim Whittle asked if the storage capacity includes only petroleum tanks and containers regulated under APSA or if it could also include other oils to determine if a tank facility meets the “qualified facility” eligibility. The Committee Chair replied that since the statute requires a CUPA to inspect a tank facility with 10,000 gallons or more of petroleum, Section 2200.00(a)(2) focuses only on petroleum tanks and containers that are regulated under APSA to assist in determining if the storage capacity is 10,000 gallons or more. This proposal is the mechanism to identify facilities that are required to be inspected pursuant to the statute. The “qualified facility” term is a Federal SPCC rule term which incorporates all oils, while APSA only regulates petroleum; the authority only extends to petroleum and no other oils, unless the statute is changed.

Mr. Whittle further asked if there will be a help bubble feature in CERS to assist tank facilities on the new data fields required in Section 2200.00. The Committee Chair replied that the new fields will have help bubble or field descriptions.

B. Tanks in Underground Areas

The proposed CCR Title 24, Part 9 (California Fire Code) regulations for tanks in underground areas pursuant to SB 612 have been submitted to the OSFM Code Development and Analysis Division Chief.

Division Chief Greg Andersen provided a brief overview of the 2016 intervening code cycle for CCR Title 24 (refer to the [California Building Standards Commission \(CBSC\) website](#) for more information). The code package must be submitted to the CBSC before the end of December 2016. It will be reviewed by the Code Advisory Committee around February 2017 and once approved by them, it will go through public comment. Once public comments are addressed, it will go through the final approval process by the CBSC, which will be completed by end of June 2016. Once approved, it will go to the publisher. The effective date is July 1, 2018.

Sande Pence asked if the [full implementation of] tanks in underground areas must wait for the [CCR Title 19] APSA regulations to be adopted even if the CCR Title 24, Part 9 requirements become effective first. The Committee Chair answered that the [implementation of] tanks in underground areas does not have to wait for the APSA regulations. The OSFM was required, per SB 612, to develop regulations for tanks in underground areas and specifically address connected piping in terms of secondary containment and leak detection. The State Water Resources Control Board was mainly concerned with the [lack of secondary containment and leak detection] requirements in the fire code for piping connected to tanks in underground areas.

The Tanks in Underground Area Working Group has continued to meet to tackle other projects. The group has completed the main text of the proposed CCR Title 19 regulations (non-building standards requirements) and are working on the abbreviated SPCC Plan template for those facilities with less than 1,320 gallons of petroleum and has one or more tanks in an underground area. The group is also working on a monthly inspection checklist for use by such tank facilities.

Proposed legislation changes on tanks in underground areas were submitted to Randy Sawyer for review by the CUPA Forum Board. The changes proposed regarding tanks in underground areas are as follows:

1. Redefining a tank in an underground area, so that it excludes containers such as 55-gallon drums from being regulated as tanks in underground areas.
2. Add a provision to provide an environmental equivalence (alternative measure) to direct viewing of the entire surface of a tank in a containment structure when the containment structure cannot provide enough space for direct viewing; the containment structure would be required to be installed with a monitoring device.
3. The piping section was separated into its own subsection. Propose to exclude vents (emergency vents) used solely to relieve excessive internal pressure from the piping requirements for secondary containment and leak detection,. The type of ancillary equipment regulated under APSA was also clarified.
4. Provide an exclusion to certain tank systems (specific to facilities with tanks in an underground area and less than 1,320 gallons of petroleum):

hydraulic fluid tanks (closed loop systems that operate lifts, elevators, and other similar devices) and heating oil tanks. This exclusion would be consistent with the exclusions under the underground storage tank requirements. Note that these tanks are still regulated under APSA if the facility has 1,320 gallons or more of petroleum.

5. Lastly, allow facilities with tanks in an underground area and less than 1,320 gallons of petroleum to prepare an SPCC Plan using the abbreviated SPCC Plan template that will be developed by OSFM.

According to Mr. Sawyer, there were no issues from the CUPA Forum Board regarding these proposed legislation changes.

Patrick Wong wanted to know if certain lubricating tank systems commonly used at powerhouses could be included in the exclusion, like hydraulic tank systems. The Committee Chair noted the member's suggestion.

C. APSA FAQ

A new APSA CERS FAQ has been developed since the last meeting and is available on the [CERS Business Help page](#). This FAQ (called "Is my facility regulated under APSA?") answers a few APSA questions and provides examples. One committee member commented that, under the facility examples provided, we should insert a footnote statement explaining why certain products are not regulated under APSA. This suggestion would be good to incorporate into the larger APSA FAQ.

Glenn Warner provided an update on the APSA FAQ. Another project has been given priority, which has hindered the progress on this FAQ. The old APSA FAQ was redacted and should no longer be utilized. A member suggested that OSFM should post another announcement to not use the old APSA FAQ.

D. APSA Training

Jenna Yang provided an update on the APSA Basic Inspector Training. OSFM has received all modules with scripts from workgroup members. OSFM will continue to do a final review of all modules and narrative scripts. OSFM program staff has also been meeting with IT staff to determine specific needs for the online training and for assistance in the paperwork for the bidding process.

Mr. Sawyer asked when the online training will be completed and what OSFM plans to do if the OSFM online training is not in place by the end of this year. Division Chief Greg Andersen replied that although the online training will not be ready by the end of this year, OSFM is moving as quickly as possible to complete this project. Once OSFM has a better idea of the online training completion date, OSFM will determine the best next course of action.

VI. New Business

A. State Fire Marshal

The Governor has not yet appointed a State Fire Marshal. In the interim, the Assistant State Fire Marshal, Mike Richwine, is the Acting State Fire Marshal.

B. Fire Code Interpretation

A new code interpretation bulletin regarding aboveground storage tanks (AST) on farms was developed and published on September 1, 2016. This code interpretation answers certain questions about ASTs at farms and it also addresses the concerns of the author and the sponsor behind SB 1147, which was introduced in February 2016 and amended twice since then. The latest version of this bill required that local agencies adopt, through an ordinance, more stringent standards than the state or federal requirements. More stringent requirements are already required to be adopted through an ordinance pursuant to Health and Safety Code requirements for building standards, including the fire code.

C. Farms and Federal SPCC Rule

US Senate Bill S.2848 (Water Resources Development Act [WRDA] of 2016) was introduced this year and includes language on SPCC requirements for farms. It clarifies specific SPCC requirements for farms originally addressed in the Water Resources Reform and Development Act (WRRDA) of 2014. It increases the minimum container or tank size at farms, which will remove many farms from being regulated under the Federal SPCC rule once the bill is approved. It is unknown if additional language will be included in this bill. [Details of this bill may be found on the Congress.Gov website at: <https://www.congress.gov/bill/114th-congress/senate-bill/2848/text>. Refer to Section 8006.]

Changes to APSA should be considered once this bill becomes law.

US EPA is currently prohibited from enforcing or implementing the SPCC rule on farms, including continuing their rulemaking to amend the SPCC rule for farms per WRRDA of 2014.

D. CERS and APSA

The Committee Chair reviewed the proposed changes to the current CERS APSA data field (ID 8 – own or operate aboveground petroleum storage tank in the Business Activities section) to incorporate tanks in underground areas. Regarding the CERS APSA data field on conditionally exempt tank facilities, Ryan Bailey provided changes to the Committee Chair. The current proposal was deemed acceptable to Mr. Bailey, although he still preferred all conditions of the exemption to be in one location – under the field question instead of the field

description. Sande Pence mentioned that this new APSA data field should be able to accommodate or account for the upcoming Federal SPCC rule changes for farms. The Committee Chair stated that farms may eventually need to have a separate APSA data field in CERS. Members suggested the description for this data field to be specific to APSA to eliminate any confusion with the Federal SPCC rule.

VII. Open Forum and Public Comments

A. STI Update

Wayne Geyer provided an update on the STI SP001 inspection standard that is currently going through a revision. Task forces have completed their tasks and provided their recommendations to the committee. During the first quarter of next year, all recommendations will go through the approval process by the committee; then the revised standard will go out for public comment. Notable changes include the following: asphalt tanks (not addressed in current standard); items related to water monitoring; and the scope of the standard. The inspection checklists provided at the end of the standard will also be modified.

B. APSA TAG

Jim Whittle provided an update on the APSA TAG. The biggest discussion from last week's APSA TAG meeting was regarding the definition of petroleum. The types of petroleum products being regulated under APSA, specifically petroleum as a "fraction" of crude oil, remained problematic to many CUPAs. Many CUPAs feel that mixtures of products containing a certain percentage of petroleum are or should be regulated under APSA, but other CUPAs only regulate those that are 100 percent petroleum products – conventional petroleum products.

OSFM will work with their Legal Office to obtain clarification on the definition of petroleum under APSA.

Members agreed that an answer to this question is not only critical to the CUPAs but also the regulated community, including the SPCC Plan preparers, in terms of compliance with the State APSA.

C. Other Issues/Comments

The Committee Chair asked the members and guests to discuss additional items, issues, or concerns, if they had any.

Jay McKeeman mentioned that he is retiring November 23, 2016, and that Ryan Hanretty will be taking over his place.

Patrick Wong asked about the APSA inspection checklist. The Committee Chair replied that the APSA TAG developed inspection checklists. The 2016 update to the APSA checklists have been completed and submitted to the CUPA Forum Board. The checklists are based on the 2016 CERS Violation Library (<https://cersbusiness.calepa.ca.gov/Public/Violations>). The CUPA Forum Board is waiting for the revised hazardous waste generator inspection checklist(s) before they could submit all checklists to certain data management software vendors. If a member wanted a copy of the APSA inspection checklists, they may contact Mr. Whittle and CUPAs may contact their CUPA Forum Board representative.

VIII. Action Items

1. APSA FAQ
2. APSA Basic Inspector Training – Finalize modules and complete bid package
3. CERS data field for conditionally exempt tank facilities – update description for data field and provide revised version to CalEPA
4. Randy Sawyer to obtain feedback from CUPA Forum Board on proposed APSA regulations (Section 2180.01 on SPCC Plan implementation verification at tank facilities with less than 10,000 gallons of petroleum); relay feedback to Committee Chair
5. Jay McKeeman to contact US EPA to request clarification on “visible discharges from ASTs to be corrected”
6. Consider providing exclusion for lubricating tank systems commonly used at powerhouses – discuss with Tanks in Underground Areas Working Group
7. Clarify definition of “petroleum” – OSFM to work with Legal Office for clarification
8. OSFM to post another announcement to not use the old APSA FAQ

IX. Schedule Next Meeting and Adjourn

The Committee Chair will send out “Doodle” polls to the members to find the best available dates for an emergency meeting to discuss the proposed APSA regulations and the next committee meeting in January 2017.

The meeting was adjourned by the Committee Chair at 11:19 a.m.

ATTACHMENT

DRAFT

California Code of Regulations

Title 19 Public Safety Code

Division 1

Chapter 15

Aboveground Petroleum Storage Act Program

Articles 1-7

Sections 2150.00-2210.00

ARTICLE 1 ADMINISTRATION

2150.00 AUTHORITY

California Code of Regulations, Title 19, Division 1, Chapter 15 is adopted by the Office of the State Fire Marshal under the authority of the Health and Safety Code, Division 20, Chapter 6.67, Section 25270.4.1.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Section 25270.4.1(a), (c) and (d), Health and Safety Code.

2150.01 TITLE

These regulations shall be known as the “Regulations for the Aboveground Petroleum Storage Act (APSA),” may be cited as such, and will be hereinafter referred to as “these regulations.”

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270 and 25270.4.1(a), Health and Safety Code.

2150.02 PURPOSE

The purpose of these regulations is to implement the Aboveground Petroleum Storage Act which requires tank facility owners or operators in California, as described in Health and Safety Code Section 25270.3, to comply with the requirements of the spill prevention, control, and countermeasure (SPCC) plan specified under the Code of

Federal Regulations, Title 40, Chapter I, Subchapter D, Part 112 (commencing with Section 112.1).

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.3 and 25270.4, Health and Safety Code.

2150.03 SCOPE

(a) Except as otherwise provided in the exemptions described in Sections 2150.04, 2150.05 and 2150.06, these regulations apply to all tank facilities and Unified Program Agencies as specified in Health and Safety Code Sections 25270.3 and 25270.4.

(b) A tank facility is subject to these regulations if any of the following apply:

(1) The tank facility is subject to the oil pollution prevention regulations specified in the Code of Federal Regulations, Title 40, Part 112 (commencing with Section 112.1).

(2) The tank facility has a total aggregate storage capacity of 1,320 gallons or more of petroleum as described in Health and Safety Code Section 25270.3(b).

(3) The tank facility has a storage capacity of less than 1,320 gallons of petroleum and has one or more tanks in an underground area meeting the conditions specified in Health and Safety Code Section 25270.2(o)(1). If this subsection is applicable, only tanks meeting the conditions specified in Health and Safety Code Section 25270.2(o)(1) shall be included as storage tanks and subject to these regulations.

(c) These regulations apply to the protection of the natural resources of the State of California, including navigable waters of the United States as defined in the Code of Federal Regulations Title 40, Part 112.

Note: Authority Cited: Sections 25270.4.1(a) and (d), and 25270.4.5(a), Health and Safety Code.

Reference: Sections 25270.3, 25270.4, 25270.4.1(a) and (d), and 25270.4.5(a), Health and Safety Code; and Section 1321(o), Chapter 26, Title 33, United States Code.

2150.04 EXEMPTIONS TO THESE REGULATIONS

Facilities, tanks and equipment that are exempt from the Code of Federal Regulations, Title 40, Part 112 as described in the Code of Federal Regulations, Title 40, Section 112.1(d)(1)(ii) through (d)(12) are exempt from these regulations.

EXCEPTIONS:

(1) A tank in an underground area as defined in Health and Safety Code Section 25270.2(o) is not exempt from these regulations even if exempt under the Code of Federal Regulations, Title 40, Section 112.1(d)(4).

(2) A tank facility with an aggregate storage capacity of 1,320 gallons of petroleum is not exempt from these regulations even if exempt under the Code of Federal Regulations, Title 40, Section 112.1(d)(2)(ii).

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.2(a) and (o), and 25270.4.1(d), Health and Safety Code;
and Section 112.1, Part 112, Title 40, Code of Federal Regulations.

2150.05 NONAPPLICABILITY

The tank facilities, tanks and equipment listed in Health and Safety Code Section 25270.2 (a)(1) through (7) are not subject to these regulations.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Section 25270.2(a), Health and Safety Code.

2150.06 For purposes of clarification, Health and Safety Code Section 25270.2(a)(1) through (7) is repeated.

(1) A pressure vessel or boiler that is subject to Part 6 (commencing with Section 7620) of Division 5 of the Labor Code.

(2) A tank containing hazardous waste or extremely hazardous waste, as respectively defined in Sections 25117 and 25115, if the Department of Toxic Substances Control has issued the person owning or operating the tank a hazardous waste facilities permit for the storage tank.

(3) An aboveground oil production tank that is subject to Section 3106 of the Public Resources Code.

(4) Oil-filled electrical equipment, including, but not limited to, transformers, circuit breakers, or capacitors, if the oil-filled electrical equipment meets either of the following conditions:

(A) The equipment contains less than 10,000 gallons of dielectric fluid.

(B) The equipment contains 10,000 gallons or more of dielectric fluid with PCB levels less than 50 parts per million, appropriate containment or diversionary structures or equipment are employed to prevent discharged oil from reaching a navigable water course, and the electrical equipment is visually inspected in accordance with the usual routine maintenance procedures of the owner or operator.

(5) A tank regulated as an underground storage tank under Chapter 6.7 (commencing with Section 25280) of the Health and Safety Code and Chapter 16 (commencing with Section 2610) of Division 3 of Title 23 of the California Code of Regulations and that does not meet the definition of a tank in an underground area.

(6) A transportation-related tank facility, subject to the authority and control of the United States Department of Transportation, as defined in the Memorandum of Understanding between the Secretary of Transportation and the Administrator of the United States Environmental Protection Agency, as set forth in Appendix A to Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations.

(7) A tank or tank facility located on and operated by a farm that is exempt from the federal spill prevention, control, and countermeasure rule requirements pursuant to Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.2(a) and 25270.4.1(d), Health and Safety Code.

ARTICLE 2 DEFINITIONS

2160.00 DEFINITIONS

(a) The following terms used in these regulations shall have the definitions provided in the Code of Federal Regulations, Title 40, Chapter 1, Subchapter D, Part 112, Section 112.2 unless the terms have already been defined in Health and Safety Code, Division 20, Chapter 6.67, Section 25270.2.

(1) Adverse weather

(2) Alteration

- (3) Animal Fat
- (4) Breakout tank
- (5) Bulk storage container
- (6) Bunkered tank
- (7) Completely buried tank
- (8) Complex
- (9) Contiguous zone
- (10) Contract or other approved means
- (11) Discharge
- (12) Facility
- (13) Farm
- (14) Fish and wildlife and sensitive environments
- (15) Injury
- (16) Loading/unloading rack
- (17) Maximum extent practicable
- (18) Mobile refueler
- (19) Motive power container
- (20) Navigable waters of the United States
- (21) Non-petroleum oil
- (22) Offshore facility
- (23) Oil
- (24) Oil-filled operational equipment
- (25) Oil Spill Removal Organization
- (26) Onshore facility
- (27) Owner or operator

(28) Partially buried tank

(29) Permanently closed

(30) Petroleum oil

(31) Produced water container

(32) Production facility

(33) Regional Administrator

(34) Repair

(35) Spill Prevention, Control, and Countermeasure Plan; SPCC Plan, or Plan

(36) Storage capacity of a container

(37) Transportation-related and non-transportation-related

(38) United States

(39) Vegetable oil

(40) Vessel

(41) Wetlands

(42) Worst case discharge

(b) The following terms used in these regulations shall have the definitions provided in Health and Safety Code, Division 20, Chapter 6.67, Section 25270.2.

(1) Aboveground storage tank or storage tank

(2) Board

(3) Certified Unified Program Agency or CUPA

(4) Direct Viewing

(5) Office

(6) Operator

(7) Owner

(8) Person

(9) Participating Agency or PA

(10) Petroleum

(11) Regional board

(12) Release

(13) Secretary

(14) Storage or store

(15) Storage capacity

(16) Tank facility

(17) Tank in an underground area

(18) Unified Program Agency or UPA

(19) Viewing

(c) The following term shall have the definition provided in Health and Safety Code, Division 20, Chapter 6.11, Section 25404(a)(3).

(1) Minor violation

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.2, 25270.4.1(a), (c) and (d), and 25404(a), Health and Safety Code; and Section 112.2, Part 112, Title 40, Code of Federal Regulations.

ARTICLE 3 GENERAL PROVISIONS

2170.00 IMPLEMENTATION

(a) Tank facility owners or operators subject to Health and Safety Code, Chapter 6.67 shall prepare and implement an SPCC plan to address discharges or releases.

(b) These regulations shall be applied by the Unified Program Agency (UPA) in a manner that is consistent with the Code of Federal Regulations, Title 40, Part 112.

(c) The UPA is not authorized under these regulations to evaluate the provisions and recommendations contained in an SPCC plan independent from the provisions of the Code of Federal Regulations, Title 40, Part 112, but the UPA is authorized to review the Plan to ensure that it complies with the Code of Federal Regulations, Title 40, Part 112 and is implemented in accordance with the Code of Federal Regulations, Title 40, Part

112. In carrying out its responsibilities under these regulations, the UPA shall request additional information from the owner or operator of the tank facility if necessary to verify that the Plan meets the abovementioned federal requirements and that the owner or operator is implementing the Plan as written.

(d) In accordance with the Code of Federal Regulations, Title 40, Sections 112.7(c)(1)(i) and 112.8(c)(2), any containment systems that are required must be sufficiently impervious to contain petroleum such that the entire containment system, including walls and floor, must be capable of containing petroleum and must be constructed so that any discharge from a primary containment system, such as a tank, will not escape the containment system before cleanup occurs. Systems that meet the applicable requirement of being sufficiently impervious to contain petroleum with respect to the Code of Federal Regulations, Title 40, Sections 112.7(c)(1)(i) and/or 112.8(c)(2) also meet that requirement with respect to the Aboveground Petroleum Storage Act and these regulations.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.4.1, 25270.4.5(a), and 25270.5, Health and Safety Code.

2170.01 SPCC PLAN PREPARATION, IMPLEMENTATION AND CONDITIONAL EXEMPTION

2170.02 For purposes of clarification, Health and Safety Code, Chapter 6.67, Section 25270.4.5 is repeated.

(a) Except as provided in subdivision (b), each owner or operator of a storage tank at a tank facility subject to this chapter shall prepare a spill prevention control and countermeasure plan applying good engineering practices to prevent petroleum releases using the same format required by Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations, including owners and operators of tank facilities not subject to the general provisions in Section 112.1 of those regulations. Each owner or operator specified in this subdivision shall conduct periodic inspections of the storage tank to ensure compliance with Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations. In implementing the spill prevention control and countermeasure plan, each owner or operator specified in this subdivision shall fully comply with the latest version of the regulations contained in Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations.

(b) A tank facility located on and operated by a farm, nursery, logging site, or construction site is not subject to subdivision (a) if no storage tank at the location exceeds 20,000 gallons and the cumulative storage capacity of the tank facility does not exceed 100,000 gallons. Unless excluded from the definition of an “aboveground storage tank” in Section 25270.2, the owner or operator of a tank facility exempt pursuant to this subdivision shall take the following actions:

(1) Conduct a daily visual inspection of any storage tank storing petroleum. For purposes of this section, “daily” means every day that the contents are added to or withdrawn from the tank, but no less than five days per week. The number of days may be reduced by the number of state or federal holidays that occur during the week if there is no addition to, or withdrawal from, the tank on the holiday. The unified program agency may reduce the frequency of inspections to not less than once every three days at a tank facility that is exempt pursuant to this section if the tank facility is not staffed on a regular basis, provided that the inspection is performed every day the facility is staffed.

(2) Allow the UPA to conduct a periodic inspection of the tank facility.

(3) If the UPA determines installation of secondary containment is necessary for the protection of the waters of the state, install a secondary means of containment for each tank or group of tanks where the secondary containment will, at a minimum, contain the entire contents of the largest tank protected by the secondary containment plus precipitation.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Section 25270.4.5, Health and Safety Code.

2170.03 PERIODIC INSPECTIONS BY TANK FACILITY OWNERS AND OPERATORS

In conducting periodic inspections as described in Section 2170.02(a), each owner or operator shall inspect each aboveground storage tank at a tank facility in accordance with the frequency specified in the applicable industry inspection standard or an equivalent inspection program developed by a licensed professional engineer in accordance with good engineering practice.

EXCEPTION: This section shall not apply to tank facilities that meet the conditions described in Section 2170.02(b).

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.4.5(a) and 25270.4.1(d), Health and Safety Code.

2170.04 AGGREGATE STORAGE CAPACITY OF A TANK FACILITY

For purposes of these regulations, the aggregate storage capacity shall include aboveground storage tanks and containers with a shell capacity of 55 U.S. gallons or greater including, but not limited to, tanks in an underground area, bulk storage containers (for example, drums, intermediate bulk containers and totes), mobile refuelers, oil-filled operational equipment, and oil-filled manufacturing equipment, as described in the Code of Federal Regulations Title 40, Section 112.2. The aggregate storage capacity shall not include capacity calculations from exemptions and exclusions identified in Sections 2150.04, 2150.05, and 2150.06.

Note: Authority cited: Section 25270.4.1(a) Health and Safety Code.
Reference: Sections 25270.4.1(a), (c) and (d), 25270.2(a)(1) through (6), Health and Safety Code; and Section 112.1, Part 112, Title 40, Code of Federal Regulations.

ARTICLE 4 UPA INSPECTIONS AND ENFORCEMENT

2180.00 SPCC PLAN REVIEW

At least once every three years, the UPA shall do the following to ensure compliance with Health and Safety Code Chapter 6.67 and the Code of Federal Regulations, Title 40, Part 112:

- (1) Verify that each tank facility has a current SPCC plan in place that has been certified by the owner or operator or a licensed professional engineer.
- (2) Review the SPCC plan, and any updates thereto, to determine whether the SPCC plan is complete and appropriate for the tank facility type.
- (3) Verify that each SPCC plan is reviewed by the owner or operator at least once every five years and the review is documented.

EXCEPTION: This section shall not apply to tank facilities that meet the conditions described in Section 2170.02(b).

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.4, 25270.4.5(a), and 25270.5, Health and Safety Code.

2180.01 SPCC COMPLIANCE VERIFICATION – LESS THAN 10,000 GALLONS

(a) At least once every three years, to verify SPCC plan implementation at each tank facility with less than 10,000 gallons of petroleum storage capacity, the UPA shall, at a minimum, verify that each owner or operator is in compliance with the following:

(1) Appropriate containment and/or diversionary structures or equipment is provided pursuant to the Plan prepared in accordance with the Code of Federal Regulations, Title 40, Part 112.

(2) Tank facility inspections of aboveground storage tanks are conducted as described in Section 2170.03 pursuant to the Code of Federal Regulations, Title 40, Part 112.

(3) Visible discharges from aboveground storage tanks are corrected and accumulations of petroleum in diked areas are removed.

(b) In meeting the requirements of subsection (a), the UPA shall develop a procedure to verify SPCC Plan implementation at tank facilities with less than 10,000 gallons of petroleum storage capacity.

(c) The UPA may inspect tank facilities with less than 10,000 gallons of petroleum storage capacity to verify SPCC Plan implementation.

EXCEPTION: This section shall not apply to tank facilities that meet the conditions described in Section 2170.02(b).

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.

Reference: Sections 25270.4, 25270.4.5(a), and 25270.5, Health and Safety Code.

2180.02 SPCC COMPLIANCE INSPECTIONS – 10,000 GALLONS OR MORE AND TANKS IN UNDERGROUND AREAS

At least once every three years, the UPA shall inspect each tank facility with a petroleum storage capacity of 10,000 gallons or more and each tank facility with a tank in an underground area to verify SPCC Plan implementation and compliance with all applicable requirements of the Code of Federal Regulations, Title 40, Part 112, and the Health and Safety Code, Chapter 6.67.

EXCEPTION: This section shall not apply to tank facilities that meet the conditions described in Section 2170.02(b).

Note: Authority cited: Section 25270.4.1(a) and 25270.4.5(a), Health and Safety Code.

Reference: Sections 25270.2(c)(3)(A), 25270.2(o), 25270.3(c), 25270.4.5 and 25270.5, Health and Safety Code.

2180.03 OPTIONAL INSPECTIONS

The UPA may inspect tank facilities conditionally exempt under Section 2170.02(b) to verify compliance with the conditions of the exemption.

Note: Authority cited: Sections 25270.4.1(a) and 25270.4.5(b)(2), Health and Safety Code.

Reference: Sections 25270.4, 25270.4.5(b)(2), and 25270.13(a), Health and Safety Code.

2180.04 INSPECTION REPORTS

(a) The UPA inspector shall, if the owner or operator or authorized representative is present, prior to leaving the tank facility, discuss the findings of the inspection and any questions or concerns that the owner or operator or authorized representative might have regarding the inspection.

(b) Within five business days after the conclusion of an inspection, the UPA inspector should provide to the owner or operator or authorized representative of the tank facility an initial summary of all violations, a notice to comply, or the final inspection report, including applicable citations alleged by the inspector. The final inspection report shall be provided within 30 calendar days after the inspection.

Note: Authority cited: Section 25270.4.1(a) Health and Safety Code.

Reference: Sections 25270.4, 25270.4.5(a), 25270.5(a), 25185(c)(1) and 25288(b), Health and Safety code.

2180.05 NOTICE TO COMPLY

2180.06 For purposes of clarification, Health and Safety Code, Chapter 6.11, Section 25404.1.2(a), (b), (c), (d), and (e) is repeated.

- (a) (1) An authorized representative of the UPA, who in the course of conducting an inspection, detects a minor violation, shall take an enforcement action as to the minor violation only in accordance with this section.
- (2) In any proceeding concerning an enforcement action taken pursuant to this section, there shall be a rebuttable presumption upholding the determination made by the UPA regarding whether the violation is a minor violation.

- (b) A notice to comply shall be the only means by which a UPA may cite a minor violation, unless the person cited fails to correct the violation or fails to submit the certification of correction within the time period prescribed in the notice, in which case the UPA may take any enforcement action, including imposing a penalty, as authorized by this chapter.
- (c) (1) A person who receives a notice to comply detailing a minor violation shall have not more than 30 days from the date of the notice to comply in which to correct any violation cited in the notice to comply. Within five working days of correcting the violation, the person cited or an authorized representative shall sign the notice to comply, certifying that any violation has been corrected, and return the notice to the UPA.
- (2) A false certification that a violation has been corrected is punishable as a misdemeanor.
- (3) The effective date of the certification that any violation has been corrected shall be the date that it is postmarked.
- (d) If a notice to comply is issued, a single notice to comply shall be issued for all minor violations noted during the inspection, and the notice to comply shall list all of the minor violations and the manner in which each of the minor violations may be brought into compliance.
- (e) If a person who receives a notice to comply pursuant to subdivision (a) disagrees with one or more of the alleged violations listed on the notice to comply, the person shall provide the UPA a written notice of disagreement along with the returned signed notice to comply. If the person disagrees with all of the alleged violations, the written notice of disagreement shall be returned in lieu of the signed certification of correction within 30 days of the date of issuance of the notice to comply. If the issuing agency takes administrative enforcement action on the basis of the disputed violation, that action may be appealed in the same manner as any other alleged violation under Section 25404.1.1.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.

Reference: Sections 25270.4.1(c) and 25404.1.2(b), (c), (d) and (e), Health and Safety Code.

2180.07 ENFORCEMENT

The UPA may pursue enforcement for class I or class II violations as described in Health and Safety Code, Chapter 6.11, Section 25404(a)(3) through an administrative penalty pursuant to Health and Safety Code Section 25270.12.1, an administrative enforcement order pursuant to Health and Safety Code Section 25404.1.1, a civil

penalty pursuant to Health and Safety Code Section 25270.12, or as a misdemeanor pursuant to Health and Safety Code Section 25270.12.5.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.

Reference: Sections 25270.2(c)(3)(A), 25270.4, 25270.4.1(c), 25270.12, 25270.12.1, 25270.12.5, 25404(a)(3), 25404.1.1, and 25404.2, Health and Safety Code.

ARTICLE 5 UPA TRAINING

2190.00 UPA STAFF TRAINING

(a) In addition to the initial training required pursuant to Health and Safety Code Section 25270.5(c), UPA staff who inspect tank facilities pursuant to Section 2180.02 shall complete a minimum of four hours of refresher training every three years to maintain knowledge of applicable federal and state laws and regulations regarding tank facilities. Training topics may include, but not be limited to, those covered in an aboveground storage tank training program or any other generally accepted industry practice.

EXCEPTION: Initial training pursuant to Health and Safety Code Section 25270.5(c) is not required for UPA staff who inspect tank facilities with a storage capacity of less than 10,000 gallons, including tank facilities with one or more tanks in an underground area.

(b) Training shall be documented and the training records maintained by the UPA.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.

Reference: Section 25270.5, Health and Safety Code.

ARTICLE 6 REPORTING REQUIREMENTS

2200.00 TANK FACILITY ELECTRONIC DATA REPORTING

(a) Regardless of whether a tank facility statement is submitted pursuant to Health and Safety Code Section 25270.6(a), the owner or operator of a tank facility shall submit the following information electronically to the statewide information management system within twelve months following the date that the statewide information management system is capable of receiving these data, and, thereafter, annually review and certify that the information in the statewide information management system is complete, accurate, and up to date. Review of this information shall be completed in conjunction with the annual review and certification of hazardous materials business plan information, if applicable, in accordance with Health and Safety Code, Chapter 6.95, Section 25508.2.

(1) Date of SPCC plan certification or most current 5-year review, whichever is more recent;

(2) Total aggregate petroleum storage capacity of a tank facility in gallons (as specified in Section 2170.04); and

(3) Number of tanks in an underground area as defined in Health and Safety Code Section 25270.2(o).

(b) Each UPA shall verify that a tank facility has submitted the information listed under subsection (a).

EXCEPTION: This section shall not apply to tank facilities that meet the conditions described in Section 2170.02(b).

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.2(m) and (o), 25270.4.1(d), 25270.4.5(a) and (b), 25270.6(a), 25404(e)(4) and 25508.2, Health and Safety Code.

2200.01 TANK FACILITY STATEMENT

Aboveground petroleum storage as reported within the chemical inventory of a hazardous materials business plan shall satisfy the requirement for the submittal of an annual tank facility statement pursuant to Health and Safety Code Section 25270.6(a).

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.4.1(c) and 25270.6(a)(2), Health and Safety Code.

ARTICLE 7 AGENCY COORDINATION

2210.00 UPA COORDINATION WITH REGIONAL WATER BOARD

If the UPA determines that cleanup or abatement of a release from an aboveground storage tank at a tank facility is required, or additional investigation is necessary to determine if cleanup is required, then the UPA shall notify and coordinate with the Regional Water Quality Control Board on investigation, cleanup or abatement activities.

Note: Authority cited: Section 25270.4.1(a), Health and Safety Code.
Reference: Sections 25270.2(j), 25270.4, 25270.9 and 25270.13(b), Health and Safety Code.